

III. Amendments to the Drawings

Two replacement sheets of drawings including changes to Figures 2 and 3 are attached. Specifically, in Figure 2, the reference number "62" has been changed to "62A" whereas in Figure 3, the reference number "62" has been changed to "62B." Thus, in Figure 2, reference number "62B" refers to a rolled under region of the layer of TPO material 60 and in Figure 3, reference number "62B" refers to flocking applied to a lower portion of the body 32.

IV. Remarks

Claims 1 through 7, 9 through 14 and 16 through 20 are pending in the application. Claims 1, 9, 16 and 17 have been amended. Claims 8 and 15 were previously canceled.

Objection to the Drawings

The drawings were objected to under 37 C.F.R. §1.83(a) for failing to show every feature of the invention specified in the claims. Specifically, the Examiner noted the absence of a vehicle contacting member including flocking. As noted in Section III, Figure 2 has been revised to specifically call out the rolled under region 62A of the TPO layer and Figure 3 has been revised to specifically call out the flocking 62B. No new matter has been added as these revisions are clearly and/or inherently a part of the original disclosure. The originally filed text of paragraph 23 supports the reference to element 62A. Since it is well established that the claims of a patent application form a portion of the original disclosure, originally filed claim 3 supports the latter revision and thus, as stated, no new matter has been added. Acceptance of these revised drawing figures and withdrawal of the objection to the drawings is therefore both appropriate and requested.

Objection to the Specification

The specification was also objected to as failing to provide proper antecedent basis for the claimed subject matter. Again, this rejection relates to the language of claim 3. As noted directly above, since the claims and specifically claim 3 form a portion of the original disclosure, corresponding text has been added to paragraph 23 without the addition of new matter. The objection to the specification has therefore been overcome and its withdrawal is requested.

Rejections Under 35 U.S.C. §112

Claim 17 was rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically, the Examiner noted that the

limitation "said second, longer leg" lacks an antecedent in Claim 16. Responsive thereto, the word "longer" has been removed from claim 17 and, it is submitted, this basis of rejection of claim 17 has been overcome.

Rejections Under 35 U.S.C. §103

Claims 1, 2, 4, 5, 7, 16 through 18 and 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Nowosiadly in view of Dover. At the outset, the undersigned expresses his appreciation to the Examiner for the thoughtful and helpful Response to Arguments which begins on page 7 of the current Office Action. Such focused discussion is a significant assistance in moving this application forward and is most appreciated.

As the Examiner notes, Nowosiadly teaches a weatherstrip having a U-shaped body with first and second legs, a latch member, first and second flanges and, it is alleged, a third flange which extends from the body and is engageable with an end of one of the first and second flanges. It is also alleged that Nowosiadly teaches a show surface or layer 240.

Careful study of the Nowosiadly reference reveals a somewhat different situation. As illustrated in Figure 8, it is not at all clear how the end of a flange is engageable with the ends of either of the first or second flanges. The only likely candidate for such interaction is the lower flange 250 and its length is clearly insufficient as it rotates clockwise from its point of attachment to the body of the beltstrip to even approach, much less contact the bumper 243.

Nonetheless, in independent claims 1 and 16, limitations regarding the flanges have been revised to more particularly point out and distinctly claim their interrelationship. The subject claims now clearly recite that there is a region, i.e., a junction, between the first and second legs, that the first flange extends from the second leg near its end, that the second flange is disposed between the junction (or region) and the second end and that the third flange extends from the junction and is engageable with the second flange. Careful study of Nowosiadly reveals no such disclosure or suggestion of this structure or interrelationship of elements. On this

basis alone, independent claims 1 and 16 as well as claims dependent thereon, namely claims 2, 4, 5, 7, 17, 18 and 20 are not obvious and therefore patentable.

Additionally, and notwithstanding Nowosiadly's disclosure of a cover portion 240 on the exterior of the weatherstrip, the reference offers absolutely no discussion of its chemical composition, characteristics or purpose:

Wiper 206 has a thin cover portion 240, which wraps around the top wall 220 and second sidewall 222 of the molding 210. The cover terminates in a depending door seal 242 which seals the U-shaped channel with respect to the exterior door panel 202. (Column 6, lines 7 through 12).

The foregoing is the entirety of the text disclosure of Nowosiadly regarding the cover portion 240.

The Examiner has then utilized this abbreviated disclosure of an exterior cover portion to support its combination with Dover which teaches the use of a thermoplastic elastomer (TPE) layer on the interior surface of a window and door channel seal. The Examiner's arguments regarding the analogous nature of the Dover reference to the problem faced by the present inventors is noted and understood. However, it appears that the different service requirements, primarily weatherability and resistance to UV aging and ozone exposure, as well as different appearance requirements present manifestly different demands upon the product. Thus, as noted previously, Dover addresses and solves a different problem: that of providing a projection and interior surface to trim out the interior of a vehicle adjacent a door or window opening.

This course of analysis is also instructive from the standpoint of the overall channel seal. A comparison of the Dover seal with either the reference with which the Examiner has combined it or Applicants' disclosure reveals that its construction is essentially completely different. This analysis directs one to the inescapable conclusion that the Examiner has utilized Applicants' disclosure as a guide for culling from the prior art two references which disclose, in isolation, many but certainly not all of the limitations of independent claims 1 and 16. The use of Applicants' disclosure in this manner and the hindsight reconstruction of the claimed invention is, of course, inappropriate and perverts the purpose of the obviousness examination

under 35 U.S.C. §103(a). Additionally, as to claim 4, it is directed to flexible, spaced-apart flanges 44 which assist in snug retention of the latch member on a door or body component. No structure is anywhere disclosed or suggested in either the Nowosiadly or Dover references which is the same as to these structures.

For at least the foregoing reasons, claims 1, 2, 4, 5, 7, 16 through 18 and 20 are patentable and should be allowed.

Claims 9, 10, 12 and 14 were rejected under 35 U.S.C. §103(a) as being unpatentable over Nowosiadly in view of Dover. The Nowosiadly and Dover references have been discussed and distinguished above and such text is hereby incorporated by reference. Independent claim 9 has been revised to include limitations similar to those incorporated into independent claim 1. It thus recites a J-shaped body having longer and shorter legs, a junction between the legs, a first flange extending from the second leg near the latch member, a second flange spaced from the first flange and third flange extending from the junction and engageable with the second flange as well as a layer of thermoplastic olefin material on the shorter leg. Claim 9 recites a mechanical structure both distinct from and not suggested by Nowosiadly. Moreover, the structure of Dover, but for the interior projection and surface of TPE, presents an even greater gulf between it and the claim language. The silence of Nowosiadly regarding the cover portion 240, its composition, its chemistry, its durability, its purpose and characteristics fall far short of encouraging or suggesting its combination with a single, distinct feature of Dover to render the present claims obvious. Independent claim 9 and claims 10, 12 and 14 present a new and non-obvious combination over the two cited references and should be allowed.

Claims 3 and 6 were rejected under 35 U.S.C. §103(a) as being unpatentable over Nowosiadly in view of Dover as applied to claims 1, 2, 4, 5, 7, 16 through 18 and 20 above, and further in view of Belser et al. The Nowosiadly and Dover references have been discussed and distinguished above. Belser et al. teach a beltstrip and method of making. The beltstrip includes an elongated metal reinforcement, a first body portion and second body portion. The second body portion includes a lip or flange which is directed toward a window of the vehicle and includes flocking disposed thereon. Claim 3, however, recites the use of flocking on

a portion of the weatherstrip which contacts the vehicle body not the window. Thus, the relevance of the reference is not fully understood. With regard to claim 6 while Belser et al. teach a layer under the 500 micron limit of claim 6, the layer is a composite or sandwich having a first layer of polyethylene terephthalate and a second layer of Fluorex® and a third layer of polypropylene. Since the layers disclosed in Belser et al. are both mechanically and chemically distinct from Applicants' TPO layer, the fact that the three different layers happen to fall within Applicants' claimed range is not relevant to a proper obviousness analysis. Claims 3 and 6 are patentable over the combination of Nowosiadly, Dover and Belser et al.

Claims 11 and 13 were rejected under 35 U.S.C. §103(a) as being unpatentable over Nowosiadly in view of Dover as applied to claims 9, 10, 12 and 14 above, and further in view of Belser et al. The three references, Nowosiadly, Dover and Belser et al. have been discussed and distinguished above and such text is incorporated herein. Claim 11 is the claim parallel to claim 3 and recites that a member adapted to contact a body of a motor vehicle of claim 9 includes flocking. As noted above, Belser et al. teach a very different arrangement of flocking: it is disposed on a lip or flange which engages the window glass. Accordingly, with regard to claim 11, its relevance is not apparent. Claim 13, in a manner similar to claim 6, recites that the thermoplastic olefin layer is less than 500 microns in thickness. Again, since the corresponding element in Belser et al. is a sandwich made up of three distinct materials, its relevance is not readily apparent. Claims 11 and 13 are not obvious and should be allowed.

Claim 19 was rejected under 35 U.S.C. §103(a) as being unpatentable over Nowosiadly in view of Dover as applied to claims 1, 2, 4, 5, 7, 16 through 18 and 20 above, and further in view of Belser et al. Claim 19 is analogous to claims 6 and 13. Since the Belser et al. reference teaches a manifestly distinct three layer sandwich of materials other than TPO, it is less than clear what the relevance to Applicants' claim 19 is. Claim 19 is not obvious under a proper interpretation of 35 U.S.C. §103(a) and should be allowed.

SUMMARY

Pending Claims 1 through 7, 9 through 14 and 16 through 20, as amended are patentable.

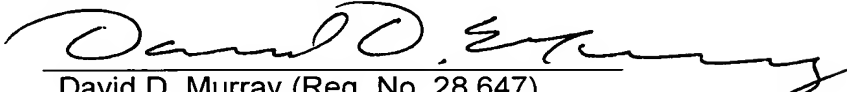
Entry of this Amendment under the provisions of 37 C.F.R. §1.111 in order to conclude prosecution of this patent application is requested.

Applicants respectfully request the Examiner grant early allowance of these claims. The Examiner is invited to contact the undersigned attorneys for the Applicants via telephone if such communication would expedite this application.

Respectfully submitted,

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Date


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